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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 ARNOLD ANDERSON,

11 Plaintiff,

12 v.

13 WARDEN NEVENS, *et al.*,

14 Defendants.  
15

Case No. 2:05-CV-01480-KJD-RJJ

**ORDER**

16 Presently before the Court is Plaintiff's Motion to Reconsider (#17). On October 3, 2006, the  
17 Court denied Plaintiff's motion to extend time and dismissed Plaintiff's complaint without prejudice  
18 for failure to serve the amended complaint in compliance with Federal Rule of Civil Procedure 4(m).  
19 Plaintiff now seeks reconsideration of the Court's Order (#15), but presents no new evidence or  
20 information for the Court's consideration.

21 A Rule 59(e) motion must be filed no later than ten (10) days following entry of the final  
22 judgment. See Fed. R. Civ. P. 59(e). A motion for reconsideration is treated as a Rule 59(e) motion  
23 if it is timely filed within the specified ten-day period. See Am. Ironworkers & Erectors Inc. v. N.  
24 Am. Constr. Corp., 248 F.3d 892, 899 (9th Cir. 2001). Reconsideration under Rule 59(e) is  
25 appropriate where: (1) the district court is presented with newly discovered evidence or committed  
26 clear error; (2) the initial decision was manifestly unjust; or (3) there is an intervening change in

1 controlling law. See School Dist. No. 1J., 5 F.3d at 1263. Motions made under Rule 59(e) “should  
2 not be granted absent highly unusual circumstances.” 389 Orange St. Partners v. Arnold, 179 F.3d  
3 656, 665 (9th Cir. 1999).

4 A motion for reconsideration should not merely present arguments previously raised; that is, a  
5 motion for reconsideration is not a vehicle permitting the unsuccessful party to reiterate arguments  
6 previously presented. See Merozoite v. Thorp, 52 F.3d 252, 255 (9th Cir. 1995); Beentjes v. Placer  
7 County Air Pollution Control District, 254 F.Supp.2d 1159, at 1161 (E.D. Cal. 2003); Khan v.  
8 Fasano, 194 F. Supp. 2d 1134, 1136 (S.D. Cal. 2001) (“A party cannot have relief under this rule  
9 merely because he or she is unhappy with the judgment.”). Plaintiff has failed to meet his burden by  
10 presenting the court with newly discovered evidence, showing the initial decision was manifestly  
11 unjust, or citing an intervening change in controlling law. Plaintiff merely reiterates his previous  
12 arguments. Plaintiff may file a new action, because his previous complaint was dismissed without  
13 prejudice. However, Plaintiff can receive no relief here, because his initial complaint was properly  
14 dismissed for failure to comply with Rule 4(m). Therefore, the Court denies Plaintiff’s motion for  
15 reconsideration.

16 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s Motion to Reconsider (#17) is  
17 **DENIED.**

18 DATED this 9<sup>th</sup> day of November 2006.

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23 Kent J. Dawson  
24 United States District Judge  
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